

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF WEST VIRGINIA
CHARLESTON DIVISION**

DON BLANKENSHIP,
Plaintiffs,
vs.
HONORABLE ANDREW NAPOLITANO
(RET.); FOX NEWS NETWORK, LLC;
CABLE NEWS NETWORK, INC.;
MSNBC CABLE LLC; NATIONAL
REPUBLICAN SENATORIAL
COMMITTEE; 35TH INC.; ASSOCIATED
PRESS; BOSTON GLOBE MEDIA
PARTNERS, LLC; BREITBART NEWS
NETWORK, LLC; CLARITY MEDIA
GROUP, INC.; THE WASHINGTON
TIMES, LLC; TRIBUNE PUBLISHING
COMPANY, LLC; WP COMPANY LLC
d/b/a THE WASHINGTON POST; NEIL
CAVUTO; CHRIS HAYES; SARAH
ELIZABETH CUPP; BRADLEY
BLAKEMAN; JOHN LAYFIELD;
STEPHANIE HAMILL; KEVIN
McLAUGHLIN; LEIGH ANN
CALDWELL; MICHAEL PATRICK
LEAHY; JOSH DAWSEY; JENNA
JOHNSON; BEN WOLFGANG;
MICHAEL WARREN; CATHLEEN
DECKER; and DOES 1-50 inclusive,
Defendants.

Case No.: 2:19-cv-00236
[Honorable John T. Copenhaver, Jr.]
State Civil Action No. 19-C-26
[Honorable Miki J. Thompson]

MOTION FOR REMAND TO STATE COURT

Plaintiff Don Blankenship, by counsel Jeffrey S. Simpkins, hereby moves to remand this action back to the Circuit Court of Mingo County, West Virginia pursuant to 28 U.S.C. § 1447.

As set forth in the Memorandum of Points and Authorities filed concurrently herewith, Defendant Fox News Network, LLC removed this action in violation of 28 U.S.C. § 1441(b)(2), because at least one of the properly named defendants (specifically, defendant 35th, Inc.) is a citizen of the forum state, this action could not be removed to the United States District Court. Plaintiff therefore requests that the Court issue an order remanding this action to state court, and requiring payment of just costs and expenses, including attorney fees, incurred as a result of the removal, as provided in 28 U.S.C. § 1447(c). Plaintiff files concurrently herewith his First Amended Complaint (“FAC”) as a matter of right, given that no responsive pleading has been filed. The FAC is filed without waiver of Plaintiff’s right to seek remand, and is filed at this time and in this Court to preserve Plaintiff’s rights with respect to the statutes of limitations as to certain defendants newly-named in the FAC.

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Wherefore, Plaintiff respectfully requests that his motion to be remand be granted.

Respectfully submitted,

DON BLANKENSHIP
By Counsel

/s/ Jeffrey S. Simpkins

Jeffrey S. Simpkins, Esq.
WVSB #9806
SIMPKINS LAW
102 E. 2nd Ave.
Williamson, WV 25661
304.235.2735
simpkinslawoffice@gmail.com

Eric P. Early, Esq.
(CA State Bar No. 166275, *pro hac vice* pending)
Jeremy Gray, Esq.
(CA State Bar No. 150075, *pro hac vice* pending)
Kevin S. Sinclair, Esq.
(CA State Bar No. 254069, *pro hac vice* pending)
EARLY SULLIVAN WRIGHT GIZER & McRAE LLP
6420 Wilshire Blvd., 17th Floor
Los Angeles, CA 90048
323.301.4660
eearly@earlysullivan.com
jgray@earlysullivan.com
ksinclair@earlysullivan.com